

REMARKS

Upon entry of this amendment claims 1-11, 13-14, 17-23, 25-26, and 28-29 will be pending. Claims 1-11, 13-14, 17-23, 25-26 have been amended, and claims 28 and 29 have been newly added. Claims 15-16, 24, and 25-26 have been cancelled with out prejudice. Claim 12 was previously cancelled. Support for these amendments can be found throughout the application and claims as filed. For example, support for new claim 28 can be found, e.g., in claim 1 as filed. Support for claim 29 can be found, e.g., at paragraph 0009 of the application as filed. Claims 1-11, 13-14, 17-23, 25-26 have been amended to address issues of formality. No new matter is added.

Applicants believe that the amendments made herein do not alter the Office's grouping of the pending claims with respect to the present Restriction Requirement mailed December 12, 2007. Applicants elect the invention of Group III, claims 10-11, 13-15, and 21-25. According to the Office, election of either Groups III or V requires election of a species from (A) vancomycin; (B) ramoplanin; (C) teicoplanin; and (D) metronidazole. In response, applicants elect the species of (B) vancomycin. **This election is made with traverse.**

To provide a clear record, applicants wish to state their position on Cerquetti (Cerquetti *et al.*, *Microbial Pathogenesis*, 13:271-279, 1992). According to the Office Action, Cerquetti discloses a *Clostridium difficile* lactate dehydrogenase. More specifically, the Office Action states:

The technical feature of Group I *Clostridium difficile* lactate dehydrogenase. The technical feature of Group 1 is anticipated by Cerquetti et al [reference omitted]. Cerquetti et al teach a 36 kDa immunodominant antigen of *Clostridium difficile* as determined by SDS and elicits precipitating antibodies in rabbits. ... and recognizes antibodies present within sera. Therefore the *Clostridium difficile* lactate dehydrogenase of Cerquetti et al anticipates the *Clostridium difficile* lactate dehydrogenase of the present application (see page 2 of the Office Action).

Applicants respectfully submit that Cerquetti merely discloses a molecule that they refer to as "the 36 kDa antigen" (272, paragraph 2). Cerquetti fails to provide any evidence, explicit or implicit, that the 36 kDa antigen is lacate dehydrogenase. Nevertheless, the Office appears to have assumed that the 36 kDa antigen disclosed by Cerquetti is lactate dehydrogenase.

Applicant : Burnie et al.
Serial No. : 10/550,410
Filed : June 23, 2006
Page : 8 of 8


Attorney's Docket No.: 22083-007US1 / WA/MC/MP100397US

Applicants submit that the Office has provided no evidence to support this assumption. Without further evidence, the 36 kDa antigen could be any 36 kDa molecule derived from *C. difficile*, and not necessarily *C. difficile* lactate dehydrogenase. Applicants respectfully submit, therefore, that Cerquetti does not anticipate the technical feature of Group I. Thus, Cerquetti does not appear to destroy the unity of the claims, and applicants respectfully request examination of all the pending claims as a single group.

A petition for a five-month extension of time and appropriate fee is being paid concurrently herewith by way of deposit account authorization. Please apply any other charges or credits to Deposit Account No. 06-1050, referencing Attorney Docket No. 22083-007US1.

Respectfully submitted,

Date: 6/11/08



Todd E. Garcia, Ph.D.
Reg. No. 54,112

Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110
Telephone: (617) 542-5070
Facsimile: (877) 769-7945